

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 1064 – HB 1041

April 17, 2013

SUMMARY OF ORIGINAL BILL: Enhances reckless homicide from a Class D felony to a Class C felony.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – \$556,900/Incarceration*

SUMMARY OF AMENDMENT (007334): Deletes all language after the enacting clause.

Redefines aggravated assault under Tenn. Code Ann. § 39-13-102 to include two new classifications of aggravated assault: intentionally or knowingly commits assault that results in death (Class C felony) and recklessly commits assault that results in death (Class D felony). Requires one convicted of aggravated assault that results in death to serve 75 percent of the sentence imposed by the court less any earned and retained sentence credits, but sentence credits may not reduce the time served below 60 percent.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Expenditures – \$4,500/Incarceration*

Assumptions for the bill as amended:

- Currently, aggravated assault can be intentional or knowing, Tenn. Code Ann. § 39-13-102(a)(1)(A), or reckless, Tenn. Code Ann. § 39-13-102(a)(1)(B). Intentional or knowing aggravated assault is a Class C felony; reckless aggravated assault is a Class D felony. The bill would require each offender who commits aggravated assault that results in death, whether committed under (a)(1)(A) or (a)(1)(B), to serve no less than 60 percent of the sentence imposed. The bill will not result in new admissions. Rather, it will result in certain offenders—those committing aggravated assaults that result in the death of another—serving a mandatory minimum percentage of the sentence imposed.
- According to statistics from the DOC, the average time served for intentional or knowing aggravated assault over the last five years has been 3.61 years.

- A Class C felony sentenced within Range I can result in a sentence up to six years with release eligibility at 30 percent, or 1.8 years. The bill would require each offender who is convicted of intentional or knowing aggravated assault that results in death to serve at least 3.6 years (6 years x .60 minimum percent served). The average offender already serves 60 percent of the maximum sentence within Range I (3.61 years / 6 years = 60 percent).
- There will be no impact from requiring an offender to serve at least 60 percent of the sentence imposed for intentional or knowing aggravated assault that results in death as the average offender is already serving 60 percent of the maximum sentence within Range I.
- According to the DOC, there has been an average of 154.5 admissions for reckless aggravated assault, a Class D felony, over the last 10 years. It is assumed that one percent of assaults result in death. This bill will result in two admissions per year (154.5 admissions x 0.01 = 1.55 admissions) serving no less than 70 percent of the sentence imposed. Population growth will not affect the number of admissions.
- According to statistics from the DOC, the average time served for reckless aggravated assault over the last five years has been 2.21 years.
- A Class D felony sentenced within Range I can result in a sentence up to four years with release eligibility at 30 percent, or 1.2 years. It is assumed that one convicted of reckless aggravated assault that results in death will receive the highest sentence for a Class D felony within Range I, four years. The bill would result in each offender serving at least 2.4 years (4 years x .60 minimum percent served). The bill would result in each offender serving an additional .19 years (2.4 years – 2.21 years).
- According to the DOC, 33.75 percent of offenders will re-offend within one year of their release. A recidivism discount of 33.75 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (2 offenders x .3375 = 1 offender).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender [2 offenders – 1 offender (recidivism discount) = 1 offender] serving an additional .19 years (69.40 days). The cost is \$4,453 (\$64.17 x 69.40 days).
- Given that the bill will not result in additional admissions but rather increased sentences for aggravated assaults already being prosecuted, any impact to the District Attorneys General Conference and the District Public Defenders Conference can be accommodated within existing resources.
- Any impact to the caseloads of state trial courts can be accommodated within existing judicial resources without an increased appropriation or reduced reversion.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

/trm